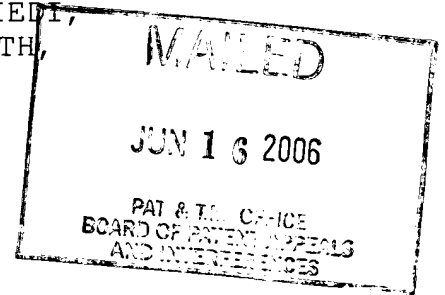


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT MILLER, MARTIN OSTERHOUT,
JACQUES DUMAS, UDAY KHIRE,
TIMOTHY BRUNO LOWINGER, BERND RIEDI,
WILLIAM J. SCOTT, ROGER A. SMITH,
JILL E. WOOD, DAVID E. GUNN,
MARTHA RODRIGUEZ, MING WANG,
TIFFANY TURNER, and
CATHERINE BRENNAN,

Application No. 09/776,936



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on May 31, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

October 3, 2005, appellants filed Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each

dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of October 3, 2005 defective;
- 2) request applicants to file a Substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief, and if necessary, vacate the Examiner's Answer mailed January 3, 2006, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 4) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
Deputy Chief Appeal Administrator
(571) 272-9797

DMS/dal

• Application No. 09/776,936

3

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
ARLINGTON COURTHOUSE PLAZA 1
SUITE 1400
2200 CLARENDON BOULEVARD
ARLINGTON, VA 22201